

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

<u>IN THE MATTER OF:</u>)	
)	
Ventura Foods LLC)	Consent Order No. [ORDER NUMBER]
3900 Vanderbilt Avenue)	
Birmingham, AL 35217)	
JEFFERSON County, AL)	
)	
<u>Permit No. IU393700794</u>)	

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter “the Department”) and Ventura Foods, LLC (hereinafter the “Permittee”) pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-17, as amended, the Alabama Water Pollution Control Act (hereinafter “AWPCA”), Ala. Code §§ 22-22-1 to 22-22-14 (2006 Rplc. Vol.), and the regulations promulgated pursuant thereto.

STIPULATIONS

1. The Permittee operates a margarine and vegetable spread production facility known as Ventura Foods, LLC – Birmingham Division (hereinafter “the Facility”), located at 3900 Vanderbilt Avenue in the city of Birmingham, Jefferson County, Alabama.
2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-17, as amended.
3. Pursuant to § 22-22A-4(n), Ala. Code (2006 Rplc. Vol.), the Department is the state agency responsible for the promulgation and enforcement of water pollution control regulations in accordance with the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 to 1388. In addition, the Department is authorized to administer and enforce the provisions of the AWPCA.
4. The Department issued State Indirect Discharge (hereinafter “SID”) Permit No.

IU393700794 (hereinafter “the Permit”), in accordance with ADEM Admin. Code chap. 335-6-5 and the AWPCA, to the Permittee on March 1, 2013, effective March 1, 2013, establishing limitations on the discharges of pollutants from a point source, designated therein as outfall number DSNS01, into the Jefferson County’s Five Mile Creek Wastewater Treatment Plant (hereinafter “the POTW”). The Permit requires that the Permittee monitor its discharges and submit periodic Discharge Monitoring Reports (hereinafter “DMRs”) to the Department describing the results of the monitoring.

5. Permit Condition I.A of the SID Permit imposes limitations on the Permittee’s discharges. The DMRs submitted to the Department by the Permittee indicate that the Permittee has discharged pollutants in violation of the limits imposed by Part I.A of the Permit. The effluent violations are listed in Attachment 1.

6. On July 22, 2014, the Department conducted a compliance sampling inspection of the Permittee’s Facility. During the inspection, the Department measured that the pH of the effluent was 3.32 s.u., in violation of the daily minimum pH limitation of 5.0 s.u. specified by SID Permit Condition I.A.

7. On March 22, 2016, the Department conducted a compliance sampling inspection of the Permittee’s Facility. During the inspection, the Department measured that the pH of the effluent was 11.13 s.u., in violation of the daily maximum pH limitation of 10.5 s.u. specified by SID Permit Condition I.A. In addition, the Department measured that the Oil and Grease of the effluent was 203.6 mg/l, in violation of the daily maximum Oil & Grease limitation of 150 mg/l specified by SID Permit Condition I.A.

8. Permit Condition I.B.2.c of the SID Permit requires that the Permittee shall not discharge or, in any manner, introduce solid or viscous pollutants in amounts which may cause obstruction to the flow in sewers, or other interference in the treatment works.

9. Permit Condition II.A.1 of the SID Permit requires that the Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the Permittee to achieve compliance with the conditions of the Permit.

10. Permit Condition II.A.3 of the SID Permit requires that the Permittee shall provide

spill prevention, control, and/or management sufficient to prevent any spills of stored pollutants from entering a water of the state or a publicly or privately owned treatment works.

11. In a letter dated November 21, 2014, the Permittee reported to the POTW and the Department that on November 19, 2014, the Facility discharged an unknown quantity of salad oil to the POTW. The Permittee indicated that the discharge was caused by a failure to close a valve on a holding tank. This discharge violated Permit Condition I.B.2.c, Permit Condition II.A.1, and Permit Condition II.A.3.

12. The Permittee submitted a Noncompliance Notification Form (hereinafter "NCF") to the Department for June 2015 to report that, on June 3, 2015, a process anomaly resulted in excess fats, oils, and greases being discharged to the POTW. In addition, during an inspection of the Facility by the Department on July 8, 2015, Facility personnel confirmed that a slug discharge of margarine material had occurred on June 3, 2015. This discharge violated Permit Condition I.B.2.c and Permit Condition II.A.1.

13. The Permittee submitted a NCF to the Department for September 2015 to report that, on September 13, 2015, degradation between a cap plate and the concrete in a manhole led to a bypass of the Facility's treatment system and resulted in the discharge of 6,000 to 8,000 gallons of untreated wastewater to the POTW. This discharge violated Permit Condition II.A.1.

14. The Permittee submitted a NCF to the Department for November 2015 to report that, on November 17, 2015, less than 1,000 gallons of oil was released into the onsite wastewater treatment system as a result of a tank malfunction/process failure while unloading a rail car. This discharge violated Permit Condition II.A.1 and Permit Condition II.A.3.

15. In a letter to the Department dated February 4, 2016, the Permittee indicated that on February 1, 2016, Facility personnel noted a cloudy discharge from the Facility flowing into the ditch west of the railroad tracks. The Permittee reported that approximately 450 gallons of oil was discharged to the ditch west of the train tracks. The Permittee indicated that the spill was the result of heavy rains causing the creek to rise and put pressure on the existing drain plug causing the plug to become unseated. The Permittee reported that the majority of the oil, along with a 25,000 gallon mixture of rain water and process water was recovered by a third-party contractor

and returned to the onsite wastewater treatment system. This discharge violated Permit Condition II.A.1.

16. In a letter to the Department dated March 2, 2016, the Permittee indicated that on February 26, 2016, the Permittee discharged an estimated 200 gallons of untreated process water to a ditch west of the train tracks. The Permittee indicated the discharge was the result of a blown fuse in a control panel that prevented operation of a wastewater pump. The Permittee reported that the majority of the oil was recovered by a third-party contractor and returned to the onsite wastewater treatment system. This discharge violated Permit Condition II.A.1.

17. The Permittee submitted a NCF to the Department for March 2016 to report that, on March 5, 2016, Facility personnel observed a cloudy discharge coming from the Facility into a drainage ditch west of the railroad tracks. The Permittee estimated that 1500 gallons of oil was discharged to the ditch. In a letter to the Department dated April 26, 2016, the Permittee indicated that the discharge was the result of a power utility pole being installed through a discharge pipe, additional pressure on the piping system due to the sanitary pipe being plugged, and a series of piping failures. The Permittee indicated that it utilized a third-party contractor to conduct clean-up activities and that all of the material that was collected was returned to the onsite wastewater treatment system. This discharge violated Permit Condition II.A.1.

18. ADEM Admin. Code r. 335-6-6-.03(1) states: "No person shall discharge pollutants into waters of the state without first having obtained a valid NPDES permit or coverage under a valid General NPDES Permit."

19. ADEM Admin. Code r. 335-6-10-.09(5)(e)6 states that "color-producing substances attributable to sewage, industrial wastes, or other wastes" shall not "unreasonably affect the aesthetic value of waters of any use."

20. ADEM Admin Code r. 335-6-10-.09(5)(e)4 specifies that instream daily dissolved oxygen concentrations shall not be less than 5 mg/l at all times.

21. The Permittee submitted a NCF to the Department for March 2016 to report that, on March 7, 2016, Facility personnel observed a cloudy discharge in a ditch west of the railroad tracks. The Permittee estimated that 150 gallons of oil was discharged to the ditch. In a letter to the

Department dated April 26, 2016, the Permittee indicated that the discharge was the result of a power utility pole being installed through a discharge pipe, additional pressure on the piping system due to the sanitary pipe being plugged, and a series of piping failures. The Permittee indicated that it engaged a third-party contractor to conduct clean-up activities and that all material that was recovered was returned to the onsite wastewater treatment system. On March 7, 2016, the Department conducted an investigation in response to the reported discharge from the Permittee's Facility. The Department observed evidence of an unpermitted discharge into an unnamed tributary (hereinafter "UT") to Five Mile Creek, a water of the state. Testing by the Department upstream of the discharge in the UT to Five Mile Creek indicated pH, dissolved oxygen, five day biological oxygen demand, and oil and grease results of 7.41 s.u., 4.95 mg/l, < 2 mg/l, and < 5.0 mg/l, respectively. Testing by the Department downstream of the observed discharge indicated pH, dissolved oxygen, five day biological oxygen demand, and oil and grease results of 8.43 s.u., 2.93 mg/l, 390 mg/l, and 133.97 mg/l, respectively. During a visual inspection conducted by the Department, Department personnel observed that the unpermitted discharge resulted in the receiving stream appearing cloudy and white downstream of the discharge. Department personnel noted that the release had stopped at the time of the inspection and that clean-up activities were being performed. This discharge violated ADEM Admin. Code r. 335-6-6-.03(1), ADEM Admin. Code r. 335-6-10-.09(5)(e)6, ADEM Admin Code r. 335-6-10-.09(5)(e)4, and Permit Condition II.A.1.

22. On March 8, 2016, the Jefferson County Environmental Services informed the Department that while it was repairing sewer lines, it rerouted the Permittee's discharge through a bypass line to the POTW. Jefferson County Environmental Services indicated that the Permittee's discharge clogged the bypass line. This discharge violated Permit Condition I.B.2.c and Permit Condition II.A.1.

23. In an e-mail sent on March 25, 2016, the POTW reported to the Department that on March 21, 2016, a large amount of grease was entering the POTW's influent wet well and, based on the color and consistency of the grease, the POTW believed it originated from the Permittee's discharge. In an e-mail sent on March 28, 2016, the POTW notified the Department that large

amounts of grease continued to enter the headworks of the POTW. The POTW reported that a sample taken from the Permittee's system that would be discharged to the POTW appeared to be whole milk. The POTW indicated that the Permittee's discharge impacted the performance of the POTW and that it had to take additional measures to ensure that the POTW remained in compliance with its own National Pollutant Discharge Elimination System Permit limitations. On April 4, 2016, and April 18, 2016, the POTW reported to the Department another incident similar in nature to the incident reported on March 28, 2016, involving a grease product believed to be from Ventura Foods.

24. The Department issued Consent Order No. 14-073-CWP (hereinafter "Consent Order") to the Permittee on June 20, 2014. The Consent Order required the Permittee to pay a civil penalty, submit an Engineering Report and Progress Reports, comply with the Oil and Grease limitations imposed by its SID Permit by December 17, 2014, and comply with all other terms, conditions, and limitations of the SID Permit immediately upon the effective date of the Consent Order.

25. The Permittee consents to abide by the terms of this Consent Order and to pay the civil penalty assessed herein.

26. The Department has agreed to the terms of the Consent Order in an effort to resolve the violations cited herein without the unwarranted expenditure of State resources in further prosecuting the alleged violations. The Department has determined that the terms contemplated in the Consent Order are in the best interests of the citizens of Alabama.

DEPARTMENT CONTENTIONS

Pursuant to Ala. Code § 22-22A-5(18)c., as amended, in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent, and degree of success of such person's efforts to minimize or mitigate the effects of such violation upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000.00 for each violation, provided however, that

the total penalty assessed in an order issued by the Department shall not exceed \$250,000.00. Each day that such violation continues shall constitute a separate violation. In arriving at this civil penalty (summarized in Attachment #2), the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATIONS AND BASE PENALTY: Based on the information available to the Department, violations of the Permit, ADEM Admin. Code div. 335-6, and the AWPCA were noted. The Department considered the general nature of each violation, the magnitude and duration of each non-compliant discharge, the characteristics of each pollutant discharged, the condition of the receiving waters, the violations' effects, if any, on the receiving waters, and any available evidence of irreparable harm to the environment or threat to the public.

B. THE STANDARD OF CARE: The Permittee has exhibited an inadequate standard of care by failing to properly operate and maintain the Facility as evidenced by the continued releases of fats, oil and grease, and improperly treated wastewater to the POTW and waters of the State. In consideration of the standard of care manifested by the Permittee, the Department has enhanced the penalty.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has determined that delayed implementation of the corrective actions included in the Permittee's Engineering Report submitted to the Department pursuant to the Consent Order may have conferred an economic benefit upon the Permittee. However, the Department has not enhanced the penalty as it has determined that the penalty is appropriate in consideration of the economic benefit derived from the Permittee.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: As noted above, the Permittee took a number of actions to mitigate environmental harm by taking responsive actions following the various spills, including contracting a third-party to conduct remediation activities. The penalty has not been adjusted as a result of the activities.

E. HISTORY OF PREVIOUS VIOLATIONS: The Permittee has a history of previous violations. In consideration of such history of previous violations, the Department has enhanced the penalty.

F. THE ABILITY TO PAY: The Permittee has not alleged an inability to pay the civil penalty.

G. This Special Order by Consent is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty the Department believes is warranted in this matter in the spirit of cooperation and desire to resolve this matter amicably, without incurring the unwarranted expense of litigation.

H. The civil penalty is summarized in Attachment #2.

PERMITTEE CONTENTIONS

A. The Permittee contends that the issues at the Facility that occurred on the following dates were all self-reported: November 19, 2015, June 3, 2015, September 13, 2015, November 17, 2015, February 1, 2016, February 26, 2016, and March 5-7, 2016. Further, Permittee contends that the incident that occurred on March 5-7, 2016 was caused by others, including sanitary sewer overflows by Jefferson County and the improper installation of a power pole by Alabama Power, which caused damage to a service line at the Facility. Further, following each incident identified above, the Permittee immediately took steps to stop the release from occurring, including using baffles and other means to isolate the discharge and hired a third-party to remove the released material from the ground and/or ditch adjacent to the Facility.

B. The Permittee has agreed to the terms of this Consent Order because it believes it is in the best interest of the parties to resolve in full the Permittee's liability for the alleged violations in this Consent Order through settlement and avoid the cost and uncertainties of litigation. Nothing in this Consent Decree shall be construed as, and the Permittee expressly does not intend to imply, any admission as to any fact, finding, issue of law, or violation of law, nor shall compliance with this Consent Decree constitute or be construed as an admission by the Permittee of any fact, finding, conclusion, issue of law, or violation of law. However, this paragraph shall not diminish or otherwise affect the obligation, responsibilities, and duties of the Parties under this Consent Decree.

ORDER

THEREFORE, the Permittee, along with the Department, desires to resolve and settle the compliance issues cited above. The Department has considered the facts available to it and has considered the six penalty factors enumerated in Ala. Code § 22-22A-5(18)c., as amended, as well as the need for timely and effective enforcement, and the Department believes that the penalty assessed below and the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittee (hereinafter collectively "Parties") agree to enter into this CONSENT ORDER with the following terms and conditions:

A. The Permittee shall pay to the Department a civil penalty in the amount of \$50,000 in settlement of the violations alleged herein within forty-five days after issuance of this Consent Order. Failure to pay the civil penalty within forty-five days after issuance may result in the Department's filing a civil action in the Circuit Court of Montgomery County to recover the civil penalty.

B. Alternatively, the Permittee may elect to perform a Supplemental Environmental Project (hereinafter "SEP"), which has been first approved by the Department, to offset a portion of the civil penalty referenced in Paragraph A above. This SEP may, at the sole discretion of the Department, offset a portion of the penalty at a ratio of \$1.00 for every \$3.00 spent on the SEP but in no event shall the penalty be offset below \$25,000. Should the Permittee elect to perform the SEP, the Permittee shall submit, within thirty days of the effective date of this Consent Order, a written report describing the SEP project, including the SEP implementation schedule. The SEP project and implementation schedule may be implemented only if approved by the Department. Should the Permittee elect to perform the SEP project and if the proposed SEP is approved by the Department, then the Permittee agrees to pay to the Department the portion of the civil penalty which has not been offset within thirty days after receipt of notification that the SEP is approved. Adequate documentation of all expenses related to the SEP shall be submitted to the Department for review and concurrence in determining the amount of the penalty to be offset no later than thirty days after the approved completion date of the SEP or the completion of the SEP, whichever is earlier. Routine operating costs (i.e., those costs that would normally be incurred by the Permittee absent the requirements of the SEP) and costs related to routine compliance

requirements, including the costs of complying with the requirements of this Consent Order, shall not be considered for penalty offset. Should the Permittee not offset the total amount of the penalty allowed, the remaining amount of the penalty required which is not offset shall be due and payable within forty-five days of the Department's notifying the Permittee of the remaining amount of penalty due to be paid. If the Department does not approve the SEP, then the Permittee shall pay the penalty as set forth in Paragraph A within thirty days after receipt of notification that the SEP is not approved.

C. All penalties due pursuant to this Consent Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check and shall be remitted to:

Office of General Counsel
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

D. The Permittee shall prepare or revise and submit to the Department an Engineering Report that addresses all the actions that have been undertaken to correct the aforementioned violations. The Engineering Report should include all the changes in maintenance and operating procedures including, but not limited to: actions taken to ensure that unpermitted discharges are prevented and permitted discharges do not obstruct the flow in sewers or cause other interference in the treatment works; an outline of modifications the Permittee has made to the existing treatment and collection system works; and recommendations addressing the need for new or additional treatment and collection system works as necessary to achieve compliance with applicable rules, regulations and Permit conditions. The Engineering Report shall be prepared by a professional engineer licensed to practice in the State of Alabama. The Engineering Report shall be submitted so that it is received by the Department no later than thirty days after the date of issuance of this Order. If the Department determines through its review of the submitted Engineering Report that the submittal is not sufficient, then the Permittee shall modify the Engineering Report. The Permittee shall submit modifications to the Engineering Report, if required, so that they are

received by the Department no later than thirty days after Permittee's receipt of the Department's comments.

E. The Permittee shall fully comply with the Permit effluent limitations for Oil and Grease and pH upon issuance of this Consent Order.

F. The Permittee shall comply with all other terms, conditions, and limitations of the Permit immediately upon the issuance of this Order, including ceasing all unpermitted discharges to waters of the state as well as all prohibited discharges to the POTW.

G. The Permittee shall submit a certification to the Department, signed by a professional engineer licensed to practice in the State of Alabama, indicating whether the Permittee is in compliance with all requirements of this Consent Order with the exception of Paragraph B. The Permittee shall submit such certification so that it is received by the Department no later than 60 days after issuance of this Consent Order.

H. After the issuance date of this Consent Order, the Permittee shall pay stipulated penalties for each day it fails to meet any of the written submittal milestone dates or satisfy any of the requirement dates contained herein. The stipulated civil penalties for failure to meet each milestone or any requirement date, except for *Force Majeure* acts as hereinafter defined, shall be as follows:

<u>Period of Noncompliance</u>	<u>Penalty per Day per Violation</u>
1st to 30th day	\$ 100.00
31st to 60th day	\$ 200.00
After 60 days	\$ 300.00

If the Permittee fails to meet any milestone or any assigned date ninety days after the required dates found in Paragraphs D and G the Department reserves the right to file a new action against the Permittee.

I. Should violations continue to occur thirty days after the issuance of this Consent Order or as stipulated in Paragraph H above, then the Department may issue an additional order

or file suit against the Permittee in the Circuit Court of Montgomery County or other court of competent jurisdiction to enforce compliance of this Consent Order.

J. Payment of stipulated penalties for violations of milestone dates under this Consent Order are due no later than the 28th day of the month following the month a milestone date was not achieved. Notification to the Permittee by the Department of the assessment of any stipulated penalty is not required.

K. This Consent Order shall apply to and be binding upon both Parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the Party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the Party represented, and to legally bind such Party.

L. Subject to the terms of these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations cited in this Consent Order.

M. The Permittee it is not relieved from any liability if it fails to comply with any provision of this Consent Order.

N. For purposes of this Consent Order only, the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County. In any action brought by the Department to compel compliance with the terms of this Agreement, the Permittee shall be limited to the defenses of *Force Majeure*, compliance with this Agreement and physical impossibility. A *Force Majeure* is defined as any event arising from causes that are not foreseeable and are beyond the reasonable control of the Permittee, including its contractors and consultants, which could not be overcome by due diligence (i.e., causes which could have been overcome or avoided by the exercise of due diligence will not be considered to have been beyond the reasonable control of the Permittee) and which delays or prevents performance by a date required by the Consent Order. Events such as unanticipated or increased costs of performance, changed economic circumstances, or normal precipitation events, or failure to obtain federal, state, or local permits shall not constitute *Force Majeure*. Any request

for a modification of a deadline shall be accompanied by the reasons (including documentation) for each extension and the proposed extension time. The Permittee shall submit this information so that it is received by the Department a minimum of ten working days prior to the original anticipated completion date. If the Department, after review of the extension request, finds the work was delayed because of conditions beyond the control and without the fault of the Permittee, the Department may extend the time as justified by the circumstances. The Department may also grant any other additional time extension as justified by the circumstances, but it is not obligated to do so.

O. The sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future concerning the Facility which would constitute possible violations not addressed in this Consent Order, then such future violations may be addressed in other orders as may be issued by the Director, by litigation initiated by the Department, or by such other enforcement action as may be appropriate. The Permittee shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order if such future orders, litigation or other enforcement action addresses new matters not raised in this Consent Order.

P. This Consent Order shall be considered final and effective immediately upon signature of all Parties. This Consent Order shall not be appealable, and the Permittee does hereby waive any hearing on the terms and conditions of same.

Q. This Consent Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.

R. Final approval and entry into this Consent Order are subject to the requirements that the Department provide notice of proposed orders to the public, and that the public have at least thirty days within which to comment on the proposed Consent Order.

S. Should any provision of this Consent Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State

law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

T. Any modification of this Consent Order shall be agreed to in writing and signed by both Parties.

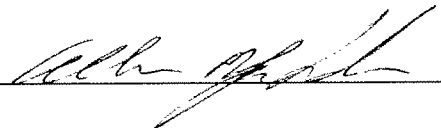
U. Except as otherwise set forth herein, this Consent Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State or local law, and shall not be construed to waive or relieve the Permittee of its obligation to comply in the future with any permit.

Executed in duplicate, with each part being an original.

Ventura Foods, LLC.

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

EXECUTED AND ISSUED:

By:  By: _____
Its: VA Engineering Its: _____
Date: 11/2/16 Date: _____

Attachment 1: Effluent Limitation Violations

Attachment 1: Effluent Limitation Violations

SID Permit IU 39-37-00794

Monitoring Period	Outfall	Parameter	Limit	Reported	Limit Type	Unit
November 2014	S011	Oil & Grease	150	347	Maximum Daily	mg/l
March 2015	S011	Oil & Grease	150	171	Maximum Daily	mg/l
July 2015	S011	pH	10.5	10.8	S.U.	S.U.
July 2015	S011	Oil & Grease	150	280	Maximum Daily	mg/l
March 2016	S011	Oil & Grease	150	212	Maximum Daily	mg/l

**See Order for additional effluent violations measured by the Department including:*

- July 2014 – minimum pH
- March 2016 – maximum pH, maximum Oil & Grease

Attachment 2: Penalty Synopsis

Attachment 2

Ventura Foods Birmingham, Jefferson County IU393700794

Violation*	Number of Violations*	(A)	(B)	(C)
		Seriousness of Violation*	Standard of Care*	History of Previous Violations*
Unpermitted Discharge	1	\$ 6,000.00	\$ 1,500.00	\$ 2,500.00
SID Effluent Violations	7	\$ 2,100.00		\$ 350.00
Spills***	6	\$ 10,000.00	\$ 10,000.00	\$ 5,000.00
Water Quality Violations (Color, D.O.)	2	\$ 12,500.00	\$ 5,000.00	\$ 7,500.00
Prohibited Discharge to POTW**	3	\$ 4,000.00	\$ 1,500.00	\$ 1,500.00
		\$34,600.00	\$18,000.00	\$16,850.00
		Total (A)	Total (B)	Total (C)
<div>Additional Adjustments due to negotiations, receipt of additional information, or public comment</div> <div><div>Mitigating Factors (-)</div><div>Economic Benefit (+)</div><div>Ability to Pay (-)</div><div>Other Factors (+/-)</div><div>Total Adjustments (+/-)</div></div> <div><div></div><div></div><div></div><div>-\$19,450.00</div><div>-\$19,450.00</div></div>		Base Penalty Total		\$69,450.00
		[Total (A) + Total (B) + Total (C)]		
		Mitigating Factors (-)		
		Economic Benefit (+)		\$0.00
		Ability to Pay (-)		
		Other Factors (+/-)		
		INITIAL PENALTY		\$69,450.00
		Total Adjustments (+/-)		-\$19,450.00
		FINAL PENALTY		\$50,000.00

Footnotes

*See the "Department's Contentions" portion of the Order for a detailed description of each violation and the penalty factors

** Includes prohibited discharges to POTW of pollutants which caused obstruction in sewer or other interference, from improper operation/maintenance, and from improper spill control/management

*** Includes spills/releases resulting from Improper Operation/Maintenance